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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,164	01/20/2004	Richard L. Weaver	433-11US	6642
23716	7590	05/11/2005	EXAMINER	
ANTHONY ASQUITH 28-461 COLUMBIA STREET WEST WATERLOO, ON N2T 2P5 CANADA			ALIMENTI, SUSAN C	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,164

Applicant(s)

WEAVER, RICHARD L.

Examiner

Susan C. Alimenti

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 11-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 3/10/05.

Claim Objections

2. Claim 6 is objected to because of the following informalities: It appears that in line 23, the word --made-- should added after the word "are". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "them" in line 5 of the claim. This is indefinite as it is unclear what "them" is meant to define. Claim 6 similarly cites the limitation them in line 5.

Claims 8-10 recite the limitation "the fenced panel(s)" throughout the claims. There is insufficient antecedent basis for this limitation in the claim, as said claims are dependant upon claim 6.

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Claim 8 further recites "the ribs" and "the boxes" in lines 3 and 4; there is insufficient antecedent basis for this limitation in the claim

Claim 2 recites the limitation "the front and rear end areas" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claims 3-5 and 7 are rejected as being dependant upon the rejected subject matter of claims 1 and 6.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-6 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Launder (US 3,552,358), and further in view of Hedeson et al. (US 4,471,720).

Launder discloses the claimed invention, as best understood, except it is not positively disclosed that the trays are made of plastic. Launder's poultry cage comprises a metal framework having uprights 16 and cross members 18 fixed together in an open rectangular configuration. Framework defines poultry receiving trays 10 having floor, side, and, rear panels made of a mesh grid. While a door is not positively shown, it is considered inherent that the trays 10 have and ingress and egress means so to facilitate entry and removal of the poultry and access to the interior of the tray. While Launder does not positively disclose that the tray panels are made from

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a plastic material Hedeson et al. teach that it is advantageous to use a plastic material for poultry to rest upon in order to better maintain the poultry's body temperature (Hedeson, col.1, lns.57-65, & col.2, lns.8-10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use plastic to construct the side and floor panels of Launder's poultry receiving tray 10 in order to better maintain the body poultry temperature.

Regarding claim 2, the floor panel is domed in the middle and is consider to be at least 0.7' above a line dram from "the front and rear areas," as best understood.

Regarding claim 3, the mesh grid has openings or slots that have a width considered to be of a dimension that will resists snagging the bird feet and allow fluid to pass therethrough. Note, "narrow enough," in line 4 of claim 3 is a broadly recited dimensional limitation.

Regarding claim 4, cross members 18 are disposed along the length of tray 10, and are placed for support at the front, middle and rear of the tray, and thus the floor panel (See Launder, Figure 1).

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Launder in view of Hedeson as applied to claim 6 above, and further in view of Scott (US 747,243).

Launder, as modified, discloses the claimed invention as best understood except there is no fence panel arranged to fit in with the framework to form and enclosure. Scott discloses a poultry cage in the same field of invention having trays 10 disposed inside a framework 5, and a fence panel 6 is provided to enclose the trays and protect them from the environment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

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modify Launder's poultry cage by adding a fence panel to the framework in order to create and enclosure for the trays and protection for the poultry contained therein.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan C. Alimenti whose telephone number is 571-272-6897. The examiner can normally be reached on Monday-Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harvey Behrend can be reached on 571-272-6871. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCA


JACK KEITH
PRIMARY EXAMINER
FOR 3644 SR